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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,901	03/08/2004	Paul Senn	BCGIR-010AX	1538
207 7590 06/01/2007 WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			EXAMINER RAMPURIA, SHARAD K	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/795,901

Applicant(s)

SENN ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### ***Continued Examination Under 37 CFR 1.114***

II. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/21/2007 has been entered.

#### ***Disposition of the claims***

III. The current office-action is in response to the amendments/remarks filed on 03/21/2007. Accordingly, Claims 1-46 are imminent for further assessment as follows:

#### ***Claim Rejections - 35 USC § 103***

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sawyer** [US 5794140] in view of **Castro** [US 5440621].

As per claim 1, Sawyer teaches:

A method (Abstract), comprising

Associating a rate plan with the request, the rate plan being associated with at least two rates, (e.g. regular rate and reduced rate applied in nights/weekend; Col.4; 22-40) two connection rates, each of the at least two connection rates defining the respective relationship between services provided by a communications service provider and the fees retained by the communications service provider in exchange therefor, computing a rate schedule based on the rate plan, (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21) and,

Sawyer fails to teach Identifying an account balance associated with a request for a communications event, determining duration of the communications event by comparing the rate schedule to the account balance. However, Castro teaches in an analogous art, that Identifying an

Art Unit: 2617

account balance associated with a request for a communications event, determining a duration of the communications event by comparing the rate schedule to the account balance. (Col.8; 7-28)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Sawyer including Identifying an account balance associated with a request for a communications event, determining duration of the communications event by comparing the rate schedule to the account balance in order to provide an apparatus in the form of a telecommunication-time metering device or time-metered telecommunication device which is capable of reading prepurchased telecommunication-time data, and processing such data to reflect a decrease in telecommunication-time which is essentially equal to the time duration lapsed during each telecommunication connection.

As per claims 2, 19, 36 Sawyer teaches:

A method according to claims 1, 18, 32 wherein associating a rate plan with the request includes associating at least one of: a connection charge rate and a tax charge rate. (Col.9; 52-65)

As per claims 3, 20, 37 Sawyer teaches:

A method according to claims 1, 18, 36 wherein computing a rate schedule includes incorporating at least one of: an initial rate period, at least one fixed fee, available free time, and a cost per second for the communications event. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 4, 22, 40, Sawyer teaches:

Art Unit: 2617

A method according to claims 1, 18, 32 wherein the request includes an initiation of a telephone call. (18; Fig.1, Col.5; 45-50)

As per claims 5, 23, 41, Sawyer teaches:

A method according to claims 1, 18, 32 wherein the request includes an initiation of a cellular telephone call. (18; Fig.1, Col.5; 45-50)

As per claims 6, 42-43, Sawyer teaches:

A method according to claims 1, 32 wherein identifying an account balance associated with the request includes at least one of: receiving an account code from a user, receiving an account code from a recipient, identifying a device receiving the communications event, and identifying a device initiating the communications event. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 7, 38-39, 44-45 Sawyer teaches:

A method according to claims 1, 32 further comprising authorizing completion of the communications event for the determined duration. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 8, Sawyer teaches:

A method according to claim 7, wherein authorizing completion of the communications event includes terminating a telephone calls at a switch. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 9, Sawyer teaches:

Art Unit: 2617

A method according to claim 7, wherein authorizing completion of the communications event includes terminating a cellular telephone calls at a cellular switch. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 10, 35, Sawyer teaches all the particulars of the claim except wherein comparing the rate schedule to the account balance includes determining a duration of the communications event for which an accrued cost of the communications event is approximately equal to the account balance. However, Castro teaches in an analogous art, that method according to claims 1, 32 wherein comparing the rate schedule to the account balance includes determining a duration of the communications event for which an accrued cost of the communications event is approximately equal to the account balance. (Col.8; 7-28)

As per claims 11, Sawyer teaches:

A method according to claim 1, wherein computing a rate schedule includes incorporating at least one of: an initial rate period and fixed fees. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 12, Sawyer teaches:

A method according to claim 1, wherein computing a rate schedule includes at least one of: computing endpoints of the communications event, determining a distance of the communications event, considering time of day of the communications event, and, considering day of week of the communications event. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

Art Unit: 2617

As per claims 13, Sawyer teaches:

A method according to claim 1, further comprising, monitoring the communications event for a rate schedule altering event, and computing an updated rate schedule upon determining the occurrence of the rate schedule altering event. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claim 14, Sawyer teaches all the particulars of the claim except updating the account balance before the rate schedule-altering event, and computing an updated duration of the communications event by comparing the updated account balance and the updated rate schedule. However, Castro teaches in an analogous art, that a method according to claim 13, further comprising, updating the account balance before the rate schedule altering event, and computing an updated duration of the communications event by comparing the updated account balance and the updated rate schedule. (Col.8; 7-28)

As per claims 15, Sawyer teaches:

A method according to claim 13, wherein monitoring the communications event includes determining that a number of parties to the communications event has changed. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claims 16, Sawyer teaches:

A method according to claim 15, wherein determining that a number of parties to the communications event has changed, includes determining that a new party is added to the communications event. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)



Art Unit: 2617

As per claims 17, Sawyer teaches:

A method according to claim 13, wherein monitoring the communications event includes determining a change in a communications event distance. (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)

As per claim 18, Sawyer teaches:

A system (Abstract), comprising  
at least one communications interface to receive information representative of a request to initiate a communications event, (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21)  
information representative of rate plans for a plurality of communications service providers, each rate plan associated with at least two rates, (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21) and  
at least one processor coupled to the at least one database and the at least one communications interface, to identify an account balance associated with the request, to associate a rate plan with the request, to compute a rate schedule based on the at least two rates (Col.10; 45-50, Col.11; 7-23, Col.2; 18-21) from the associated rate plan, and

Sawyer fails to teach, at least one database to store: information associated with a plurality of accounts, to compare the rate schedule to the account balance to determine a duration for which an accrued cost of the communications event is approximately equal to the account balance.

However, Castro teaches in an analogous art, that, at least one database to store: information associated with a plurality of accounts, to compare the rate schedule to the account balance to

determine duration for which an accrued cost of the communications event is approximately equal to the account balance. (Col.8; 7-28)

*Claims 32, 46* is the **method, computer readable medium** claim corresponding to **method** claim 1 respectively, and rejected under the same rationale set forth in connection with the rejection of claim 1 respectively, above.

***Response to Amendments & Remarks***

V. Applicant's arguments with respect to claims 1-46 has been fully considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or [EBC@uspto.gov](mailto:EBC@uspto.gov).

/Sharad Rampuria/  
Patent Examiner  
Art Unit 2617